

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

INNOVATIVE OFFICE PRODUCTS, INC.,	:	CIVIL ACTION
	:	
Plaintiff,	:	NO. 05-04037
	:	
v.	:	
	:	
SPACECO, INC., et al.,	:	
	:	
Defendants.	:	

MEMORANDUM AND ORDER

Stengel, J.

May 15, 2006

Innovative Office Products, Inc. ("Innovative") filed this patent infringement action against SpaceCo, Inc. ("SpaceCo") seeking monetary damages as well as injunctive relief. SpaceCo has moved to bifurcate the trial into two phases pursuant to Rule 42(b) of the Federal Rules of Civil Procedure. I will deny this motion because SpaceCo has failed to satisfy its burden of demonstrating that bifurcation would (1) serve judicial economy; (2) avoid inconvenience; and (3) not prejudice any of the parties.

I. BACKGROUND

Innovative initiated this lawsuit on July 28, 2005 by filing a complaint against defendants SpaceCo and Haworth, Inc.¹ for patent infringement. The patents at issue are:

¹Innovative voluntarily dismissed defendant Haworth, Inc. from this case on April 6, 2006.

(1) United States Patent No. 6,505,988, entitled "Tilter for Positioning Electronic Devices" (the "'988 patent"); (2) United States Patent No. 6,719,253, entitled "Channel for an Arm Apparatus for Mounting Devices with Cable Management System" (the "'253 patent"); and (3) United States Patent No. 6,854,698, entitled "Arm Apparatus for Mounting Electronic Devices" (the "'698 patent"). Innovative seeks damages for past infringement and injunctive relief for future infringement of the '988, '253, and '698 patents. SpaceCo has asserted a counterclaim against Innovative, alleging that Innovative tortiously interfered with SpaceCo's contractual relations. Presently before the Court is SpaceCo's motion to bifurcate the trial on the issues of liability and damages.

II. LEGAL STANDARD

Rule 42(b) of the Federal Rules of Civil Procedure allows a district court to bifurcate a trial in its discretion. Rule 42(b) provides:

The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues, always preserving inviolate the right of trial by jury as declared by the Seventh Amendment to the Constitution or as given by a statute of the United States.

FED. R. CIV. P. 42(b).

Whether to bifurcate a trial is a "matter to be decided on a case-by-case basis and must be subject to an informed discretion by the trial judge in each instance." Sprinturf, Inc. v. Southwest Recreational Indus., Inc., No. Civ.A.01-7158, 2004 WL 96751, at *1 (E.D. Pa. Jan. 15, 2004) (quoting Lis v. Robert Packer Hosp., 579 F.2d 819, 824 (3d Cir. 1978)). While courts have generally been more willing to bifurcate patent trials than other types of cases, bifurcation in these cases remains the exception rather than the rule. Sprinturf, 2004 WL 96751, at *1 (citing Real v. Bunn-O-Matic Corp., 195 F.R.D. 618, 620 (N.D. Ill. 2000)). The moving party bears the burden of demonstrating that bifurcation would serve judicial economy, avoid inconvenience, and not prejudice any of the parties. Spectra-Physics Lasers, Inc. v. Uniphase Corp., 144 F.R.D. 99, 101 (N.D. Cal. 1992).

In Real, 195 F.R.D. at 620-21, the Northern District of Illinois surveyed the federal case law addressing bifurcation and identified a number of factors for courts to consider when deciding whether to bifurcate a trial. The Real court noted that the most important consideration is that of balancing the "competing prejudices" in a given case. Id. at 621 (citing Corrigan v. Methodist Hosp., 160 F.R.D. 55, 57-58 (E.D. Pa. 1995)). Specifically, courts should balance the prejudice of potential jury confusion on complex questions of liability and damages against the prejudice caused by the considerable delay

that results from holding separate trials. Real, 195 F.R.D. at 620-21. The Real court also identified a number of other factors for courts to consider, including: (1) the need to review voluminous documents to resolve damages issues; (2) complex infringement issues; (3) multiple patents, infringing products, claims, counterclaims, or parties; and (4) the probability that the defendant would prevail on the infringement issue. Id. at 620.²

III. DISCUSSION

SpaceCo argues that I should bifurcate this trial on the issues of liability and damages for three primary reasons. First, SpaceCo asserts that bifurcation will promote judicial economy. Specifically, SpaceCo argues that, should a jury find in its favor during the liability phase, the damages phase will become less complicated or even unnecessary. Second, SpaceCo alleges that bifurcation will assist the jury's understanding of the "complex, but unrelated" issues of liability and damages. Finally, SpaceCo argues that bifurcation will not prejudice Innovative. I find that SpaceCo has failed to satisfy its burden to bifurcate this trial for the following reasons.

²Courts must also consider the Seventh Amendment's guarantee of a fair trial before granting a motion to bifurcate. See In re Paoli R.R. Yard PCB Lit., 113 F.3d 444, 452 n.5 (3d Cir. 1997). In particular, a "separate trial of a particular issue cannot be ordered . . . when the issue is so interwoven with the other issues in the case that it cannot be submitted to the jury independently of the others without confusion and uncertainty that would amount to a denial of a fair trial." CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE & PROCEDURE § 2391 (2d ed. 1995). See also Paoli, 113 F.3d at 452 n.5 ("The Seventh Amendment requires that, when a court bifurcates a case, it must divide issues between separate trials in such a way that the same issue is not reexamined by different juries") (quotations and citations omitted).

A. Judicial Economy

SpaceCo's first argument is mere speculation. "[T]he validation of this type of self-serving argument, without more, would permit all defendants in all cases to sever liability from damages." Reading Tube Corp. v. Employers Ins. of Wausau, 944 F. Supp. 398, 404 (E.D. Pa. 1996). Such speculative reasoning does not justify bifurcating this trial.

B. Reducing Jury Confusion

SpaceCo's second argument in favor of bifurcation is equally unconvincing. In Sprinturf, Judge Pollack denied the defendant's motion to bifurcate because, *inter alia*, the defendant failed to (1) indicate why the presentation of damages evidence would be more complex than in a typical patent case; (2) identify which aspects of the damages issue would be particularly difficult for jurors to comprehend; or (3) suggest that the damages trial would require the production and inspection of an extremely large amount of documents. Sprinturf, 2004 WL 96751, at *2.

Similarly, Innovative makes a mostly generic argument that a determination of the damages in this case will be "complex." While there are six patents at issue here, they are all closely related to a mechanical monitor extension arm and its components. As Innovative notes in its opposition, each of these patents relates to a relatively simple mechanical device with which many jurors may have personal experience, as opposed to

more complex chemical or electrical patents. I have confidence that the jury in this case will be able to effectively and fairly consider both the liability and damages evidence related to these patents in one trial.

Moreover, bifurcation could actually increase jury confusion in this case.

SpaceCo has raised a counterclaim of tortious interference with contractual relations.

Under Pennsylvania law, that cause of action requires the four following elements:

- (1) the existence of a contractual, or prospective contractual relation between the complainant and a third party;
- (2) purposeful action on the part of the defendant, specifically intended to harm the existing relation, or to prevent a prospective relation from occurring;
- (3) the absence of privilege or justification on the part of the defendant; and
- (4) the occasioning of actual legal damage as a result of the defendant's conduct.

Crivelli v. Gen. Motors Corp., 215 F.3d 386, 394 (quoting Strickland v. Univ. of Scranton, 700 A.2d 979, 985 (Pa. Super. Ct. 1997)).

If I were to bifurcate this trial, the jury would consider SpaceCo's counterclaim during the liability phase. The final element of tortious interference with contractual relations requires a demonstration of actual damages. The jury would therefore be forced to consider one set of damages during the liability phase (those relating to SpaceCo's counterclaim) and another during the damages phase (those relating to Innovative's patent infringement claim).

C. Prejudice to Innovative

Finally, I find that bifurcation of this trial would prejudice Innovative. As I have noted above, prejudice due to jury confusion is not of particular concern in this case. The prejudice of delay inherent in holding two separate trials therefore outweighs the prejudice of possible juror confusion. See Real, 195 F.R.D. at 620-21 (holding that federal courts considering bifurcation must balance the competing prejudices in a case). This factor also favors denying SpaceCo's motion to bifurcate.

IV. CONCLUSION

For the reasons described above, I will not depart from the general rule of holding a single patent infringement trial in this case. I therefore deny SpaceCo's motion to bifurcate. An appropriate Order follows.

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Defendants.	:	

ORDER

AND NOW, this 15th day of May, 2006, upon consideration of Defendant SpaceCo's Motion to Bifurcate (Docket No. 33) and Innovative's response thereto (Docket No. 35), it is hereby **ORDERED** that the motion is **DENIED**.

BY THE COURT:

/s/ Lawrence F. Stengel
LAWRENCE F. STENGEL, J.